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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/221,099 12/28/98 WALKER

J WD2-98-112

022927  
WALKER DIGITAL  
FIVE HIGH RIDGE PARK  
STAMFORD CT 06905

TM02/0808

EXAMINER

ELISCA, P

ART UNIT

PAPER NUMBER

2161  
DATE MAILED:

08/08/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/221,099**

Applicant(s)  
**Walker et al.**

Examiner  
**Pierre E. Elisca**

Group Art Unit  
**2161**

☒ Responsive to communication(s) filed on May 18, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-91 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-91 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2161



Examiner Pierre Eddy Elisca

United States Department of Commerce

Patent and Trademark Office

Washington, D. C. 20231

### DETAILED ACTION

#### *Response to Amendment*

1. This office action is in response to Applicant's amendment filed 5/18/2001.
2. Claims 1-91 are remained.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-91 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Fraser (WO 97/08638) in view of West et al. (U.S. Pat. No. 5,845,259).

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As per claims 1-3, 5-11, 13-18, 20-22, 24-30, 32-38, 40-64, 66-72 and 74-91 Fraser substantially discloses a point of sale terminal adapted to provide pricing information for selected products (which is equivalent to Applicant's claimed invention wherein said a method/system for promoting a sale of a substitute product, comprising:

receiving transaction data regarding an original product presented for purchase by a consumer at a point of sale terminal (see., abstract, lines 2 and 3, wherein said a product to be purchased and generating a signal representing the code on the product to be purchased, page 4, page 8);

transmitting the transaction data to a server during a transaction session (see., abstract, lines 3 and 4, wherein said this signal is then used to retrieve the price of the product from a first memory, it is also inherent to know that a server or computer is needed to process the code or the user's request, page 4, page 8);

receiving information regarding a substitute product from the server (see., abstract, lines 4 and 5, wherein said the signal is also used to identify a product which is equivalent to the product to be purchased and to retrieve the price of the equivalent product, page 4, page 8, page 9 and 15); and

offering the substitute product to the customer before the transaction session terminates (see., abstract, line 7, wherein said the price difference then be used by a consumer to decide if the equivalent product is a better value than the product he or she intended to purchase, page 4, page 9 and page 15). But he fails to specifically discloses the used of a remote server manufacturer and a remote retailer for transmitting transaction data. However, West discloses a point of sale including a terminal having a data reader transaction data, a remote retailer and manufacturer or remote server

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retailer manufacturer coupon redemption (see., col 2, lines 24-30, col 3, lines 31-37, col 4, lines 20-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to add a retailer and a manufacturer remote server as taught by **West** into the point of sale terminal of **Frazer** because it would have been to eliminating the need for the manual collection of data transmission (see., West, col 3, lines 35-37).

**As per claims 4, 19, 31, Fraser** discloses the claimed method wherein the transaction data includes at least one of: product price, product identifier and product UPC code (see., abstract, figs 1, 2, 4-6).

**As per claims 12, 23, 39, 65, 73, Fraser** discloses the claimed method wherein the offering comprises transmitting information regarding the substitute product to the consumer via at least one of: a printer, a display terminal and a speaker (see., abstract, fig 4).

***Response to Arguments***

5. Applicant's arguments filed 5/18/2001 have been considered but are moot in view of the new ground(s) of rejection.

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*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. The prior art made of record and relied upon is considered to applicant's disclosure.

8. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. Starting on 10/22/2000 I will be in my office on **Monday, Tuesday, and Wednesday from 5:30AM. to 6:00PM.**

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

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**Any response to this action should be mailed to:**

Commissioner of patents and Trademarks

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**or faxed to:**

(703) 308-9051, (for formal communications intended for entry )

**OR:**

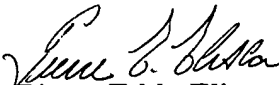
(703) 305-3718 ( for informal or draft communications, please label

“PROPOSED” or” DRAFT”)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington.

VA., Sixth floor (receptionist ).

  
JAMES P. TRAMMELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

  
Pierre Eddy Elisca

**Patent Examiner**

**August 6, 2001**